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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214649
Party	Defendant HODGE, BENNY
Correspondence Address	HODGE, BENNY 122 COUNTRY CLUB DR GREENWOOD, MS 38930-6802 bennyhodge25@yahoo.com
Submission	Answer
Filer's Name	Benny Hodge
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Signature	/Benny Hodge/
Date	03/08/2014
Attachments	ANSWER TO OPPOSITION.pdf(651441 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Mark: BENNY HUNNA

Serial No: 85/920,599

Filing Date: May 01,2013

Publication Date: October 08,2013

NOODLE TIME, INC. vs. BENNY HODGE

Opposition No. 91214649

ANSWER TO THE NOTICE OF OPPOSITION

Pursuant TBMP § 311.02, Applicant, Benny Hodge, an individual, with a principal address of 122 Country Club Dr., Greenwood, Mississippi 38930 ("Applicant"), believes that the opposition of the Opposer has no grounds. To deny the opposition, Applicant submits the following:

ANSWER TO EACH PARAGRAPH

1. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.
2. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.
3. The Applicant is without knowledge or information sufficient to form a belief as to the truth of

this averment.

4. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

5. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

6. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

7. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

8. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

9. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

10. This averment is denied by Applicant. On May 1, 2013, Applicant filed an application to register the service mark BENNY HUNNA, subject of Application Serial No. 85/920,599. Applicant filed its application based upon an intent-to-use (Section 1(b), 15 U.S.C 1052(b)) in connection with "Entertainment services in the nature of live musical performances" in International Class 041.

11. This averment is admitted by applicant.

12. This averment is denied by applicant.

13. This averment is admitted by applicant.

14. This averment is admitted by applicant.

15. This averment is denied by applicant.

16. This averment is admitted by applicant.

17. This averment is denied by applicant.

18. This averment is denied by applicant.

19. This averment is denied by applicant.

20. This averment is admitted by applicant.

21. This averment is denied by applicant.

22. Applicant hereby incorporates the answers contained in Paragraph 1 through 21 as if fully set forth herein.

23. The Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

24. The Applicant admits that Opposer's use and registration of the BENIHANA® Trademarks in the United States for restaurant and franchise services predates the purported use by Applicant. Applicant denies "The mark depicted in Subject Application, as used or intended to be used by Applicant for its goods/services is a reproduction, copy, and colorful imitation of the BENIHANA® Trademarks. The

BENNY HUNNA Mark is likely to cause confusion, mistake, or deception with regard to the origin of said goods/services and to confuse, mislead, and deceive members of the public into believing that Opposer has allowed, sponsored, approved, or licensed Applicant to provide the applied for goods/services, or in some way Applicant is connected to or affiliated with Opposer, when it is not. Any such confusion would result in injury or have a direct impact on Opposer's reputation and ability to market its own goods/services marketed under the BENIHANA® Trademarks. Furthermore, any defect, objection, or fault found with Applicant's goods/services marketed under its BENNY HUNNA Mark would negatively impact and seriously injure the reputation Opposer has established for the goods/services it sells under the BENIHANA® Trademarks."

25. This averment is denied by Applicant. Registration of the BENNY HUNNA Mark shown in Application Serial No. 85/920,599 is NOT likely to cause confusion, cause mistake, or deceive the public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). The BENNY HUNNA Mark differs from Opposers (BENIHANA® Trademarks) in sight, sound, and meaning. The BENNY HUNNA Mark consists of the Applicant's given name/birth name/personal name/legal name, "BENNY", as shown in EXHIBIT 1. The word "HUNNA" is a term used in the entertainment genre of hip hop meaning "one hundred". The term is well known to the consumers of the Applicants goods/services and has also been used in a song, "3HUNNA" Copyright Registration # PA0001839368, by "famous" rap artist

Chief Keef. The Opposers BENIHANA® means “RED FLOWER”. The name “BENNY HUNNA” shown in the Mark identifies the pseudonym of Benny Hodge a living individual.

26. This averment is denied by the Applicant.

27. Applicant hereby incorporates the answers contained in Paragraph 1 through 21 as if fully set forth herein.

28. The Applicant is without knowledge or information sufficient to form a belief as to the truth of his averment.

29. This averment is denied by the Applicant. The lack of similarity constitutes that there is no dilution of the BENIHANA® Trademarks and that Applicant’s BENNY HUNNA Mark is not in violation of 15 U.S.C. § 1125(c).

30. This averment is denied by the Applicant.

PRAYER FOR RELIEF

WHEREFORE, Applicant respectfully requests that the USPTO enter an order denying Opposition No. 91214649 and that Application Serial No. 85/920,599 proceed to registration in favor of applicant.

Dated: March 6, 2014

X Benny Hodge

Benny Hodge
Defendant

Benny Hodge

122 Country Club Dr.

Greenwood, Ms 38930

Tel: (662)897-8525

E-mail: bennyhodge25@yahoo.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document has been served on Opposers in the following manner:

By E-Mail and Fax

Janet C. Moreira

MAVEN INTELLECTUAL PROPERTY

5801 Biscayne Blvd.

Miami, Florida 33137

Fax: 305-967-7450

janet@maveniplaw.com

EXHIBIT 1

CERTIFICATION OF VITAL RECORD



WARNING:
ANY REPRODUCTION OF THIS DOCUMENT IS PROHIBITED BY LAW. DO NOT
ACCEPT UNLESS ON SECURITY PAPER WITH EMBOSSED GREAT SEAL OF THE STATE
OF FLORIDA. ALTERATION OR BRASURE VOIDS THIS CERTIFICATION.



THIS IS A CERTIFIED TRUE AND CORRECT COPY OF THE OFFICIAL RECORD ON FILE IN THIS OFFICE
CERTIFIED COPY

1. CHILD-NAME FIRST: Benny MIDDLE: Hodge LAST: Hodge		2. DATE OF BIRTH (MM, Day, Yr) June 10, 1987		3. SEX Male		4. HOSPITAL-NAME (if not in hospital, give street and number) Tallahassee Mem. Reg. Med. Center	
5. CITY, TOWN OR LOCATION OF BIRTH Leon		6. DATE SIGNED (MM, Day, Year) June 11, 1987		7. NAME AND TITLE OF ATTENDANT AT BIRTH (if other than center, type or print) A. S. Clements, M.D.		8. CERTIFIER-NAME AND TITLE (type or print) Pat Denham, Asst. Dir. of Med. Records	
9. REGISTAR Pat Denham, Asst. Dir. of Med. Records		10. DATE RECEIVED BY REGISTAR (MM, Day, Yr) June 15, 1987		11. MOTHER-MAIDEN NAME FIRST: Miranda MIDDLE: Richards LAST: Richards		12. RESIDENCE-STATE Florida	
13. CITY, TOWN OR LOCATION Leon		14. STREET AND NUMBER OF RESIDENCE 635 Okaloosa St. Apt. #3		15. RESIDENCE-CITY Tallahassee		16. MOTHER'S MAILING ADDRESS (if same as above, enter zip code only) Tallahassee	
17. FATHER-NAME FIRST: Sheldon MIDDLE: Hodge LAST: Hodge		18. AGE (at time of birth) 31		19. STATE OF BIRTH (if not in U.S.A., name country) Florida		20. SOCIAL SECURITY NUMBER 254-98-4174	
21. I certify that the personal information provided on this certificate is correct to the best of my knowledge and belief.		22. SIGNATURE OF FATHER Sheldon Hodge		23. SIGNATURE OF MOTHER Pat Denham		24. SIGNATURE OF REGISTAR Pat Denham	

LOCAL FILE NO. 87-1436
FLORIDA 109
CERTIFICATE OF LIVE BIRTH

OFFICE of VITAL STATISTICS

STATE OF FLORIDA